

Docket No. 534273-005
S/N 09/345,621
Amendment

REMARKS

A new abstract is attached hereto; claims 2, 15 and 16 have been canceled; claims 1, 9, 10, 11, 13 and 18 have been amended; and new claims 19 and 20 have been added. Reconsideration of the application is respectfully requested.

It is inferred from the Office action that the abstract is objected to. Therefore, a new abstract is attached hereto.

Claims 1-18 are rejected as indefinite. Specifically, with respect to claims 1 and 18, lines 1 and 2, it is not clear whether "an edge" and "a loading edge" refer to the same element, and if so, they are allegedly improperly recited twice. Therefore, in claims 1 and 18, the term, "an edge of" has been deleted; and thus, it is requested that this particular indefiniteness rejection be removed. Additionally, with respect to claims 9-11 and 13, "the floor of the loading platform" is positively recited to infer that the loading platform is required. Therefore, claims 9-11 and 13 have been amended to remove this positive recitation to the floor of the loading platform; and thus, it is requested that this indefiniteness rejection also be removed.

Claims 1-13 are rejected as being obvious over U.S. Pat. No. 4,422,264 to Harris ("Harris") in view of U.S. Patent No. 5,707,701 to Desrosiers ("Desrosiers"); claim 14 is rejected as being obvious over Harris and Desrosiers, in further view of U.S. Pat. No. 2,226,033 to Walling ("Walling"); and claims 15-17 are rejected as being obvious over Harris and Desrosiers, in further view of U.S. Pat. No. 3,378,059 to Young ("Young"). Claim 1 has been amended to incorporate the subject matter of canceled claim 2. The above rejections to claims 1, 3-14 and 17 are traversed for the reasons provided below. Canceled claims 15 and 16 have been rewritten, in part, as new claim 19, the novelty of which will also be discussed below.

Docket No. 534273-005
S/N 09/345,621
Amendment

As discussed in the BACKGROUND section of the present application (Specification, page 1, line 23 to page 2, line 15), Harris discloses a safety gate assembly that includes first and second safety gates, each of which have rollers that are received within a pair of parallel, inverted U-shaped tracks. The Harris safety gates are coupled together by cables, which are guided between the gates by pulleys positioned above the gates. When one of the Harris safety gates is lifted (providing access to one side of the pre-selected area) the pulley assembly will operate so as to allow the second safety gate to be lowered into a position blocking entrance to the opposite side of the pre-selected area. Likewise, when the second safety gate is lifted so as to allow entrance to the pre-selected area, the cable and pulley assembly will operate to allow the first safety gate to be lowered again, thereby restricting entrance to the pre-selected area from its opposite position. A disadvantage with the Harris assembly is that the cable and pulley system allows both the first and second safety gates to be lifted *simultaneously*, thereby facilitating easy circumvention of the protections provided by the Harris barrier assembly. Another disadvantage with the Harris assembly is that the cable and pulley systems add unnecessary complexity and expense to the apparatus.

To overcome the disadvantages of the Harris assembly, the present invention replaces the cable and pulley assembly of Harris with a substantially rigid cross-bar pivotally connected between the two gate segments. This cross-bar performs a dual purpose of (a) greatly simplifying the design of the barrier assembly and (b) effectively restricting both of the gate segments from being lifted into their open positions at the same time.

Therefore, claim 1, as amended to incorporate the subject matter of canceled claim 2, is directed to a barrier assembly for protecting a loading platform that comprises:

(a) a pair of parallel guide rails, each shaped generally as an inverted U, each having a first substantially vertical portion, a second substantially vertical portion opposite the first substantially vertical portion and a substantially horizontal portion interconnecting the first and second substantially vertical portion;

Docket No. 534273-005

S/N 09/345,621

Amendment

(b) a first gate segment having at least one pair of rollers positioned on opposite lateral sides thereof, each roller being received within a respective one of the guide rails so that the first gate segment is guided by the pair of guide rails;

(c) a second gate segment having at least one pair of rollers positioned on opposite lateral sides thereof, each roller being received within a respective one of the guide rails so that the second gate segment is guided by the pair of guide rails; and

(d) at least one substantially rigid first cross-bar pivotally coupled between the first and second gate segments;

the first gate segment being guided by the pair of guide rails from a barrier position in which the first gate segment is positioned entirely within the first substantially vertical portions of the pair of guide rails *to an open position in which the first gate segment is positioned at least partially in the substantially horizontal portions of the pair of guide rails;*

the second gate segment being guided by the pair of guide rails from a barrier position in which the second gate segment is positioned entirely within the second substantially vertical portions of the pair of guide rails *to an open position where the second gate segment is positioned at least partially in the substantially horizontal portions of the pair of guide rails;* and

the first cross-bar having a length which requires that when the first gate segment is in its barrier position the second gate segment will be in its open position, and vice-versa.

It is respectfully submitted that none of the cited prior art references teach or suggest such a structure.

The examiner argues that it would have been obvious to substitute the cable and pulley assemblies of Harris "with rigid pivoting cross-bars as taught by Desrosiers so as to allow for predetermined spacing between gate segments and to further permit each segment to be in an open and closed position relative to the other segment, as the segments are raised or lowered." The applicants respectfully disagree.

As shown in Desrosiers, Fig. 1, the safety gate includes a pair of gate segments 16, 18 pivotally coupled to a pair of cross-bars 20, 22, which are in turn coupled to a pair of stationary support posts 30 by pivot devices. This arrangement allows the cross-bars 20, 22, and in turn, the gates 16, 18 to pivot with respect to the support posts 30 in a seesaw-like manner. Accordingly, if the cross-bars 20, 22 and pivot post 30 of Desrosiers were incorporated into the

Docket No. 534273-005

S/N 09/345,621

Amendment

barrier gate assembly of Harris, as suggested by the examiner, the resulting structure would not permit the barrier gates 20, 22 of Harris to be guided to open positions, where such gate segments are "positioned at least partially in the substantially horizontal portions of the pair of guide rails" as required by claim 1 as amended, since the pivotal coupling of the cross-bars 20, 22 to the stationary support posts 30 does not allow the gates 16, 18 to move horizontally with respect to each other.

Claims 3-17 depend from claim 1, and it is therefore respectfully submitted that these claims are allowable for at least the same reasons as given above for claim 1.

Additionally, claim 17 recites that the barrier assembly further comprises a contact plate extending in front of the first substantially vertical portions of the guide rails. As discussed in the Specification, page 8, lines 1-7, this contact plate is primarily used to prevent damage to the guide rails that could be caused by the tines of a forklift truck, for example. It is respectfully submitted that none of the cited prior art references teach or suggest such a structure; and accordingly, it is respectfully submitted that claim 17 is also allowable for at least this reason.

Independent claim 18 is not indicated as being unpatentable with respect to any of the prior art. Accordingly, because the indefiniteness rejection of claim 18 has been overcome, as discussed above, it is respectfully submitted that claim 18 is in condition for allowance.

New claim 19 is essentially claim 16 redrafted in independent form, including the base claim 1 and intermediate claim 15; and further reciting that *each* pivotal coupling (joint) between the rigid cross-bar segments of the segmented cross-bar includes a roller that is received within and guided by one of the guide rails. It is respectfully submitted that none of the cited prior art references teach or suggest such a structure.

Docket No. 534273-005
S/N 09/345,621
Amendment

As mentioned above, claims 15 and 16 were rejected as obvious over Harris and Desrosiers, and in further view of Young. Young is cited by the Office action as teaching segmented pivoting cross-bars 22, 23 which are pivotally connected to door segments 10, 12, 14 and having rollers 20 at their pivot joints, where the rollers are received in the guide rails 40, 42. However, in contrast with the invention as claimed in new claim 19, not *every* pivotal connection of the segmented cross-bars include rollers that are guided by the guide rails. This is because Young requires that the door supported by the guide rails be capable of collapsing upon itself into a folded orientation as shown in Fig. 4. Therefore, only every other joint of the segmented cross-bars of Young includes a roller that is received within and guided by the guide rails. If every joint of the cross-bar segments of Young included a roller that was received within the guide rail, the door of Young would not be permitted to collapse upon itself as required by Young; and thus, Young *teaches a way* from the invention as presently claimed in new claim 19. Accordingly, it is respectfully submitted that new claim 19 is allowable for at least this reason. Additionally, it is respectfully submitted that new claim 19 is also allowable because Desrosiers would require the segmented cross-bar to be pivotally coupled to stationary posts positioned between the gate segments.

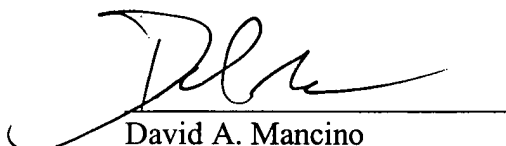
New claim 20 recites that the substantially rigid cross-bar pivotally connected between the first and second gate segments is movable to and away from the first and second substantially vertical portions of the guide rails so as to permit the first and second gate segments to be guided, at least partially, *into the substantially horizontal portions of the guide rails*. It is respectfully submitted that none of the cited prior art references teach or suggest such a structure.

Specifically, as discussed above with respect to claim 1, the cross-bars of Desrosiers are pivotally coupled to the stationary post 30 so that they are not permitted to move towards and away from the first and second vertical portions of the guide rails of Harris. Accordingly, it is respectfully submitted that new claim 20 is allowable for at least this reason.

Docket No. 534273-005
S/N 09/345,621
Amendment

In light of the foregoing, it is respectfully submitted that claims 1, 3-14 and 17-20, now pending, are in condition for allowance. Reconsideration and withdrawal of the objections and rejections of record is respectfully requested. If the examiner wishes to discuss any aspect of this response, please contact the undersigned at the telephone number provided below.

Respectfully submitted,



David A. Mancino
Reg. No. 39,289

THOMPSON HINE & FLORY LLP
2000 Courthouse Plaza NE
P.O. Box 8801
Dayton, Ohio 45401-8801
937-443-6888
dmancino@thf.com